



November 16, 2022

Dear Mr. Helming and Mr. Bernhoft,

I am writing in response to your October 19, 2022 correspondence regarding the August 29, 2022 Outagamie County Recycling and Solid Waste Department (OCRSD) landfill leachate management proposal (the "Proposal"). OCRSD is generally in agreement with the terms outlined in that correspondence and provides the following response to the points raised therein and a proposal for next steps.

Ammonia Loadings

In your October 19 correspondence, you propose that OCRSD must reduce ammonia loadings to 139 lbs/day by August 31, 2024. OCRSD is generally in agreement with this timeline, provided that HOVMSD and the Village of Little Chute agree to the following next steps:

- (1) HOVMSD and Little Chute will extend the notices of termination provided to OCRSD from February 1, 2023 to August 31, 2024. There are a number of steps OCRSD will need to take in order to implement the NELF capital improvements for leachate management, including finalizing plans and specifications for the capital improvements, obtaining approval for an operational plan modification from DNR, and establishing contractual relationships for hauling and accepting leachate. OCRSD will need to obtain approval from Outagamie County and the Brown, Outagamie, and Winnebago Counties partnership ("BOW") for each of these steps. Extension of the asserted termination date will allow OCRSD to continue working in good faith with HOVMSD and Little Chute to implement these steps and secure the necessary approvals from DNR, the County, and BOW.
- (2) HOVMSD and Little Chute will work in good faith with OCRSD to execute an agreement that replaces the current agreements between Outagamie County, HOVMSD, and Little Chute to memorialize the changed operational relationship between the parties. OCRSD will need this new agreement to be executed before bids go out for the NELF capital improvement project in the summer of 2023 in order to obtain County and BOW approval to move forward on the capital improvement project.
- (3) HOVMSD will provide a justification to OCRSD based on current and future wastewater treatment plant operational data for the ammonia limit being imposed of 139 lbs/day. As stated above, OCRSD will need to obtain approval for the costs associated with the NELF capital improvements from Outagamie County and BOW. OCRSD is willing to meet this limit as stated herein and in the Proposal, but it cannot justify these capital costs to the County or BOW absent this additional information from HOVMSD.

Along with this correspondence, OCRSD is providing the requested Preliminary Design Report ("PDR"). OCRSD will provide HOVMSD and Little Chute with the requested plans and specifications prior to the January 10, 2023 Commission meeting.

Your correspondence also references a reduction of BOD loadings. Our understanding from prior correspondence and discussions is that HOVMSD is no longer concerned with specific BOD loadings reductions. Please confirm this understanding.



Consistent Rate Discharge to HOVMSD

HOVMSD agrees with the concept OCRSWD outlined in the Proposal for delivering a consistent volume and flow rate to HOVMSD, which is further developed in the attached PDR. With respect to allowable daily discharge volumes, OCRSWD proposes that the sampling frequency should be memorialized in the updated agreement, discussed above. OCRSWD will work with HOVMSD to evaluate options for a sampling frequency and methodology upon which to set allowable discharge volumes that is a fair use of the agreed up on capacity.

Flow Metering and Sampling

HOVMSD agrees with the flow metering and sampling concept as outlined in the Proposal, which is further developed in the attached PDR. OCRSWD plans to continue to discuss with HOVMSD and Little Chute the options available for flow metering and sampling that will be appropriate for the system design.

Little Chute Billing Dispute

At the end of the October 19, 2022 correspondence, there is a reference to Little Chute being "paid in full." We understand this to relate to the costs for attorneys' fees and engineering consultant fees arising out of the period of metering irregularity that occurred between September 2018 and October 2019 for which Little Chute asserts OCRSWD is responsible.

In correspondence dated September 21, 2022, OCRSWD explained that the invoices Little Chute had given to OCRSWD did not provide sufficient information to determine what costs Little Chute incurred regarding the metering irregularities. OCRSWD requested further documentation to support these asserted costs. OCRSWD again requested this information via legal counsel in a phone call with Mr. Cole conducted on October 10, 2022. To date, OCRSWD has not received this information.

Despite the fact that OCRSWD disagrees that it is contractually obligated to pay these fees, OCRSWD remains willing to consider reimbursing Little Chute for attorneys' fees and engineering consultant fees that Little Chute incurred regarding the metering irregularities. However, OCRSWD cannot justify making such a payment to its governing body without documentation showing what these fees are. Little OCRSWD once again requests this documentation.

Best Regards,

Brian Van Straten
Director, Recycling & Solid Waste Department
Outagamie County